IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTIION

Civil Application No. 1560 of 2007
with
Civil Application No.2464 of 2007
in
Writ Petition No. 6082 of 2006

Mrs.Krishna H.Bajaj ..Applicant

vs.

1. The Administrators
Bharatiya Bhavan Cooperative
Housing Society and another ..Respondents

Shri Simil Purohit i/b Shri V.M.Sharma for applicant.
Shri Birendra Saraf for respondent no.1.
Shri Vineet B.Naik for respondent society

CORAM: S.C.DHARMADHIKARI J.
28th NOVEMBER, 2007

P.C.

1. This civil application is filed by the oiriginal disputant/respondent to the writ petition praying that without prejudice to the rights and contentions of the parties in the writ petition, some urgent repairs which would be required on 6th floor of the building Bharatiya Bhavan Cooperative Housing Society, 72, Marine Drive, Mumbai be permitted to be carried out at the costs and expenses to be incurred by the applicants Krishna H.Bajaj and another.

2. It appears from the record that this Court

had passed a without prejudice order and direction appointing an Agency to inspect the premises concerned. There is inspection report dated 18th July, 2007 of M/s Nadkarni and Company, Architects, Valuers and Interior Designors. The said report, upon inspection, states that RCC structural members like columns, beams and slabs are showing the signs of distress and some of them are in advance state of deterioration. The repairs to the structural members should be taken up immediately to stop further deterioration.

3. Upon perusal of this report and hearing the parties, I am satisfied that, at this stage, the applicants' premises which they comnplain of being at advance state of deterioration need to be repaired. This aspect is corroborated by the Inspection Report of an Independent Agency. Therefore, the report of inspection submitted by M/s Nadkarni and Co. which is taken on record, shall form the basis on which the repairs work would be undertaken. In other words, the structural repairs on 6th floor of the subject building would be undertaken by M/s Nadkarni and Co. provided the applicant puts them in funds

and bears all costs, charges and expenses including for obtaining appropriate approvals and permissions. Needless to state that this order will not prejudice the rights of the parties in the writ petition or in any pending proceedings. If M/s Nadkarni and Co. is unable to take up the assignment, then, the applicant shall approach the Court Receiver, High Court, Bombay, who, will nominate some other Agency from his panel for the work.

4. In so far as the submission of the original petitioners and Administrator that the applicant would claim the amount of repairs from the society is concerned, as of now there is no basis for such apprehension. Hence, there is no need for considering this submission or the apprehension expressed in as much as the repairs are yet to be carried out. This is a matter which can be gone into after the repairs are complete. Today all expenses are being borne by the applicants and there is no question of society being called upon to undertake the repairts or bear the expenses thereof. Needless to state that even if the report of inspection pertains to other portions or the entire

building, in the first phase, repairs would be carried out only to the portion complained of, namely, 6th floor.

5. Civil Application No.1560 of 2007 is disposed off. No costs. Liberty to apply.

6. Civil Application No.2464 of 2007 is stand over to 7th December, 2007.

(S.C.DHARMADHIKARI J.)